

**REMARKS:**

Claims 47, 48, 50-56, and 58-66 are currently pending in the application.

Claims 1-46, 49, and 57 have been previously canceled without prejudice.

Claims 47, 48, 50-56, and 58-66 stand rejected under 35 U.S.C. § 103(a) over U.S. Patent No. 5,861,885 to Strasnick et al. ("*Strasnick*") in view of U.S. Patent No. 6,665,682 to DeKimpe et al. ("*DeKimpe*").

A Final Office Action in the subject Application was mailed to the undersigned on 15 May 2006, which provides for a response period ending 15 August 2006. The Applicants filed an Amendment After Final on 28 June 2006. An Advisory Action was mailed to the undersigned on 9 August 2006. The Advisory Action stated that the Applicants amendments filed on 28 June 2006 will not be entered because they raise new issues that require further consideration and/or search. (9 August 2006 Advisory Action, Page 1). The Applicant respectfully reiterates here the arguments set forth in the Amendment After Final filed on 28 June 2006, as if fully set forth herein.

Although the Applicants believe that claims 47, 48, 50-56, and 58-66 are directed to patentable subject matter and are in condition for allowance without amendment. The Applicants have amended claims 50 and 58 to correct certain dependencies. The Applicants have also added new dependent claims 67-72 in an effort to more particularly point out and distinctly claim the subject matter which the Applicants regard as the invention. By making these amendments, the Applicants make no admission concerning the merits of the Examiner's rejection, and respectfully reserve the right to address any statement or averment of the Examiner not specifically addressed in this response. Particularly, the Applicants expressly reserve the right to pursue broader claims in this Application or through a continuation patent application. No new matter has been added.

### **REJECTION UNDER 35 U.S.C. § 112:**

The Applicants thank the Examiner for withdrawing the 35 U.S.C. § 112 rejection of claims 47-66.

### **REJECTION UNDER 35 U.S.C. § 103(a):**

Claims 47, 48, 50-56, and 58-66 stand rejected under 35 U.S.C. § 103(a) over *Strasnick* in view of *DeKimpe*.

Although the Applicants believe that claims 47, 48, 50-56, and 58-66 are directed to patentable subject matter and are in condition for allowance without amendment. The Applicants have amended claims 50 and 58 to correct certain dependencies. The Applicants have also added new dependent claims 67-72 in an effort to more particularly point out and distinctly claim the subject matter which the Applicants regard as the invention. By making these amendments, the Applicants do not indicate agreement with or acquiescence to the Examiner's position with respect to the rejections of these claims under 35 U.S.C. § 103(a), as set forth in the Office Action.

The Applicants respectfully submit that *Strasnick*, or *DeKimpe* either individually or in combination, fail to disclose, teach, or suggest each and every element of claims 47, 48, 50-56, and 58-66. Thus, the Applicants respectfully traverse the Examiner's obvious rejection of claims 47, 48, 50-56, and 58-66 under 35 U.S.C. § 103(a) over the proposed combination of *Strasnick* and *DeKimpe*, either individually or in combination.

### **The Proposed *Strasnick-DeKimpe* Combination Fails to Disclose, Teach, or Suggest Various Limitations Recited in Applicants Claims**

For example, with respect to independent claim 47, this claim recites:

***A computer graphical user interface system*** comprising:  
a database operable to store hierarchically organized data  
associated with a multi-dimensional hierarchy of data; and

**a multi-dimensional graphical user interface** coupled to the database and capable of **user interaction** to provide a **multi-dimensional user interactive graph** comprising:

**a multi-dimensional axes data hierarchy** including a top layer hierarchy associated with **a first axis dimension**, a top layer hierarchy associated with **a second axis dimension**, and a top layer hierarchy associated with **a third axis dimension**; and

**a unique bottom layer hierarchy including a plurality of function values associated with each of the top layer hierarchies** of the multi-dimensional axes data hierarchy; and

**a multi-dimensional value hierarchy associated with each of the function values** of the multi-dimensional axes data hierarchy.  
(Emphasis Added).

Independent claims 55 and 63 recite similar limitations. *Strasnick* or *DeKimpe*, either individually or in combination, fail to disclose, teach, or suggest each and every element of independent claims 47, 55, and 63.

The Applicants respectfully submit that *Strasnick* has nothing to do with independent claim 47 limitations regarding a “**computer graphical user interface system**” and in particular *Strasnick* has nothing to do with independent claim 47 limitations regarding “**a multi-dimensional graphical user interface** coupled to the database and capable of **user interaction** to provide a **multi-dimensional user interactive graph**”. Rather, *Strasnick* discloses a navigation system containing graphical objects and uses the term “axis” in association with the navigation system. (Abstract and Column 1, Lines 40-50). However, *Strasnick* only uses the term axis to refer to an x axis width and a y axis height of one or more graphical objects in the display such that **a navigator may alter the navigator’s perspective of the information landscape by adjusting the x or horizontal dimension relative to the viewpoint of the navigator**. (Column 16, Lines 33-63). *Strasnick* does not disclose, teach, or suggest a multi-dimensional axes data hierarchy, or even a navigation system that is capable of including a unique bottom layer hierarchy including a plurality of function values associated with each of the top layer hierarchies associated with multiple axis dimensions. Thus, *Strasnick* cannot provide a “**computer graphical user interface system**” or even “**a multi-dimensional axes data hierarchy including a top layer hierarchy associated with a first axis dimension, a**

*top layer hierarchy associated with a second axis dimension, and a top layer hierarchy associated with a third axis dimension; and a unique bottom layer hierarchy including a plurality of function values associated with each of the top layer hierarchies of the multi-dimensional axes data hierarchy*”, since *Strasnick* merely describes adjusting the perspective of the information landscape by adjusting the x or horizontal dimension relative to the viewpoint of the navigator.

#### **The Previous Office Action Acknowledges that *Strasnick* Fails to Disclose Various Limitations Recited in Applicants Claims**

The Applicants further respectfully submit that *Strasnick* has nothing to do with independent claim 47 limitations regarding a “*multi-dimensional graphical user interface*” comprising a “*multi-dimensional axes data hierarchy* including a top layer hierarchy associated with *a first axis dimension*, a top layer hierarchy associated with *a second axis dimension*, and a top layer hierarchy associated with *a third axis dimension*; and *a unique bottom layer hierarchy including a plurality of function values associated with each of the top layer hierarchies* of the multi-dimensional axes data hierarchy”. In fact, the previous Office Action acknowledged that *Strasnick* fails to disclose the emphasized limitations noted above in independent claim 47. Specifically the Examiner acknowledged that *Strasnick* fails to disclose “*the claim limitation of ‘axes’ and hierarchies within the claim limitation of ‘a bottom layer hierarchy associated with the top layer hierarchies of the multi-dimensional axes data hierarchy’*”. (1 November 2005 Office Action, Page 12). In the previous Office Action, the Examiner asserted that the cited portions of *Rao* disclosed the acknowledged shortcomings in *Strasnick*. However, *the Examiner has withdrawn the rejection based on Rao and has not cited any further rejection to this limitation*. As such, *the Applicants respectfully request that the rejection of claim 47 under 35 U.S.C. § 103(a) be reconsidered and that claim 47 be allowed*.

#### **The Office Action Acknowledges that *Strasnick* Fails to Disclose Various Limitations Recited in Applicants Claims**

The Applicants still further respectfully submit that the present Office Action acknowledges, and the Applicants agree, that ***Strasnick fails to disclose the emphasized limitations noted above in independent claim 47***. Specifically the Examiner acknowledges that *Strasnick* fails to disclose a “top layer hierarchy associated with ***a third axis dimension***”. (15 May 2006 Final Office Action, Pages 9-11). However, the Examiner asserts that the cited portions of *DeKimpe* disclose the acknowledged shortcomings in *Strasnick*. The Applicants respectfully traverse the Examiner’s assertions regarding the subject matter disclosed in *Dekimpe*.

The Applicants respectfully submit that *Dekimpe* has nothing to do with independent claim 47 limitations regarding a “***multi-dimensional graphical user interface*** coupled to the database and capable of ***user interaction*** to provide a ***multi-dimensional user interactive graph***” and in particular *Dekimpe* has nothing to do with independent claim 47 limitations regarding a “***multi-dimensional axes data hierarchy*** including a top layer hierarchy associated with ***a first axis dimension***, a top layer hierarchy associated with ***a second axis dimension***, and a top layer hierarchy associated with ***a third axis dimension***”. In particular, the Examiner equates the “top layer hierarchy associated with ***a third axis dimension***” recited in independent claim 47 with the “***cube***” disclosed in *Dekimpe*. (15 May 2006 Final Office Action, Page 10). However, the “***cube***” disclosed in *Dekimpe* merely illustrates the structure of the database, and ***does not include, involve, or even relate to*** a “***multi-dimensional axes data hierarchy*** including a top layer hierarchy associated with ***a first axis dimension***, a top layer hierarchy associated with ***a second axis dimension***, and a top layer hierarchy associated with ***a third axis dimension***”, as recited in independent claim 47. (Column 5, Line 64 through Column 6, Line 21). In contrast, the “top layer hierarchy associated with ***a third axis dimension***” recited in independent claim 47 is part of the “***multi-dimensional graphical user interface***” that is “coupled to the database” that provides for “***user interaction***” to “provide a ***multi-dimensional user interactive graph***”. Thus, the Applicants respectfully submit that the equations forming the foundation of the Examiner’s comparison between *Dekimpe* and independent claim 47 cannot be made. The Applicants further respectfully submit that these distinctions alone are sufficient to patentably distinguish independent claim 47 from *Dekimpe*.

**The Office Action has Failed to Properly Establish a *Prima Facie* case of Obvious over the Proposed *Strasnick-DeKimpe* Combination**

The Applicants respectfully submit that the Office Action has failed to properly establish a *prima facie* case of obviousness based on the proposed combination of *Strasnick* and *DeKimpe*, either individually or in combination. The Office Action has not shown the required teaching, suggestion, or motivation in these references or in knowledge generally available to those of ordinary skill in the art at the time of the invention to combine *Strasnick* and *DeKimpe* as proposed. The Office Action merely states that “it would have been obvious to one of the ordinary skill in the art at the time of invention was made to have incorporated *DeKimpe*’s data visualization method”. (15 May 2006 Final Office Action, Page 10). (Emphasis Added). The Applicants respectfully disagree.

The Applicants further respectfully submit that this purported advantage relied on by the Examiner is nowhere disclosed, taught, or suggested in *Strasnick* or *DeKimpe*, either individually or in combination. In essence, the Examiner asserts that one of ordinary skill in the art at the time of the invention would have been motivated “***because Strasnick’s two dimensional hierarchy can be easily extended into higher-dimensional hierarchies including the three-dimensional hierarchy.***” (15 May 2006 Final Office Action, Page 10). (Emphasis Added). The Applicants respectfully disagree and further respectfully request clarification as to how the Examiner arrives at this conclusion. For example, it is not clear what the Examiner means by “***Strasnick’s two dimensional hierarchy can be easily extended into higher-dimensional hierarchies***” (i.e. what “***higher-dimensional hierarchy***” is the Examiner referring to, how does the Examiner arrive at the conclusion that “***Strasnick’s two dimensional hierarchy can be easily extended into higher-dimensional hierarchies***”, and to what extent does the Examiner purport that “***easily extended into higher-dimensional hierarchies***” applies to the subject Application) and how does the Examiner arrive at this conclusion without using reconstructive hindsight. ***The Applicants respectfully request the Examiner to point to the portions of Strasnick or DeKimpe which contain the teaching, suggestion, or motivation to combine these references for the Examiner’s stated purported***

**advantage.** In particular, the Applicants respectfully request the Examiner to point to the portions of *Strasnick* or *DeKimpe* which expressly state that “***Strasnick’s two dimensional hierarchy can be easily extended***” to “have incorporated *DeKimpe*’s data visualization method”. The Applicants further submit that the Examiner is using the subject Application as a template to formulate reconstructive hindsight, which constitutes impermissible use of hindsight under 35 U.S.C. § 103(a).

A recent Federal Circuit case makes it crystal clear that, in an obviousness situation, the ***prior art must disclose each and every element of the claimed invention, and that any motivation to combine or modify the prior art must be based upon a suggestion in the prior art.*** *In re Lee*, 61 U.S.P.Q.2d 1430 (Fed. Cir. 2002). (Emphasis Added). Conclusory statements regarding common knowledge and common sense are insufficient to support a finding of obviousness. *Id.* at 1434-35. With respect to the subject Application, ***the Examiner has not adequately supported the selection and combination of Strasnick or DeKimpe to render obvious the Applicants claimed invention.*** The Examiner’s conclusory statements that “it would have been obvious to one of the ordinary skill in the art at the time of invention was made to have incorporated *DeKimpe*’s data visualization method” and that “***because Strasnick’s two dimensional hierarchy can be easily extended into higher-dimensional hierarchies including the three-dimensional hierarchy***”, ***does not adequately address the issue of motivation to combine.*** (15 May 2006 Final Office Action, Page 10). (Emphasis Added). This factual question of motivation is material to patentability, and cannot be resolved on subjective belief and unknown authority. *Id.* It is improper, in determining whether a person of ordinary skill would have been led to this combination of references, simply to “[use] that which the inventor taught against its teacher.” *W.L. Gore v. Garlock, Inc.*, 721 F.2d 1540 (Fed. Cir. 1983). Thus, ***the Office Action fails to provide proper motivation for combining the teachings of Strasnick or DeKimpe***, either individually or in combination.

**The Proposed *Strasnick-DeKimpe* Combination Fails to Disclose, Teach, or Suggest Various Limitations Recited in Applicants New Dependent Claims 67-72**

The Applicants respectfully submit that new dependent claims 67-72 render moot the Examiner's rejection and arguments in support of combining *Strasnick* and *DeKimpe*. The Applicants further submit that new dependent claims 67-72 contain unique and novel limitations that are not disclosed, suggested, or even hinted at in *Strasnick* or *DeKimpe*.

For example, with respect to new dependent claim 67, this claim recites:

The computer graphical user interface system according to Claim 47, wherein ***the multi-dimensional graphical user interface further comprises:***

***a first wall graphical user interface grid associated with a mathematical summarization of the plurality of function values*** associated with each of the top layer hierarchies of the multi-dimensional axes data hierarchy. (Emphasis Added).

New dependent claims 68-72 recite similar limitations. *Strasnick* or *DeKimpe* either individually or in combination, fail to disclose, teach, or suggest each and every element of new dependent claims 67-72.

The Applicants respectfully submit that *Strasnick* or *DeKimpe* have nothing to do with new dependent claim 67 limitations regarding "wherein ***the multi-dimensional graphical user interface further comprises a first wall graphical user interface grid associated with a mathematical summarization of the plurality of function values*** associated with each of the top layer hierarchies of the multi-dimensional axes data hierarchy." In fact, new dependent claim 67 contains unique and novel limitations that are not disclosed, suggested, or even hinted at in *Strasnick* or *DeKimpe*. Thus, new dependent claim 67 is not rendered obvious by the proposed combination of *Strasnick* or *DeKimpe*, or in knowledge generally available to those of ordinary skill in the art at the time of the invention and is in condition for allowance.

### **The Applicants Claims are Patentable over the Proposed *Strasnick-DeKimpe* Combination**

With respect to independent claims 55 and 63, each of these claims includes limitations similar to those discussed above in connection with independent claim 47.



Thus, independent claims 55 and 63 are considered patentably distinguishable over the proposed combination of *Strasnick* or *DeKimpe* for at least the reasons discussed above in connection with independent claim 47.

With respect to dependent claims 48, 50-54, 56, 58-62, and 64-72: claims 48, 50-54, 67, and 68 depend from independent claim 47; claims 56, 58-62, 69, and 70 depend from independent claim 55; and claims 64-66, 71, and 72 depend from independent claim 63. As mentioned above, each of independent claims 55 and 63 include limitations similar to those discussed above in connection with independent claim 47. Thus, dependent claims 48, 50-54, 56, 58-62, and 64-72 are considered patentably distinguishable over the proposed combination of *Strasnick* or *DeKimpe* for at least the reasons of depending from an allowable claim and are therefore considered to be in condition for allowance.

For at least the reasons set forth herein, the Applicants submit that claims 47, 48, 50-56, and 58-72 are not rendered obvious by the proposed combination of *Strasnick* or *DeKimpe*, or in knowledge generally available to those of ordinary skill in the art at the time of the invention. The Applicants further submit that claims 47, 48, 50-56, and 58-72 are not rendered obvious by the proposed combination of *Strasnick* or *DeKimpe*, or in knowledge generally available to those of ordinary skill in the art at the time of the invention, and are in condition for allowance. Thus, the Applicants respectfully request that the rejection of claims 47, 48, 50-56, and 58-66 under 35 U.S.C. § 103(a) be reconsidered and that claims 47, 48, 50-56, and 58-72 be allowed.

#### **THE LEGAL STANDARD FOR OBVIOUSNESS REJECTIONS UNDER 35 U.S.C. § 103:**

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, ***there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings.*** Second, there must be a reasonable expectation of success. Finally, ***the prior art reference*** (or references when combined) ***must teach or suggest all the claim limitations.*** The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be

found in the prior art, **and not based on applicant's disclosure**. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991); M.P.E.P. § 2142. Moreover, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (CCPA 1974). If an independent claim is nonobvious under 35 U.S.C. § 103, then any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988); M.P.E.P. § 2143.03.

With respect to alleged obviousness, there **must be something in the prior art as a whole to suggest the desirability**, and thus the obviousness, of making the combination. *Panduit Corp. v. Dennison Mfg. Co.*, 810 F.2d 1561 (Fed. Cir. 1986). In fact, the absence of a suggestion to combine is dispositive in an obviousness determination. *Gambro Lundia AB v. Baxter Healthcare Corp.*, 110 F.3d 1573 (Fed. Cir. 1997). The mere fact that the prior art can be combined or modified does not make the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 U.S.P.Q.2d 1430 (Fed. Cir. 1990); M.P.E.P. § 2143.01. The consistent criterion for determining obviousness is whether the prior art would have suggested to one of ordinary skill in the art that the process should be carried out and would have a reasonable likelihood of success, viewed in the light of the prior art. Both the suggestion and the expectation of success must be founded in the prior art, not in the Applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991); *In re O'Farrell*, 853 F.2d 894 (Fed. Cir. 1988); M.P.E.P. § 2142.

A recent Federal Circuit case makes it clear that, in an obviousness situation, the prior art must disclose each and every element of the claimed invention, and that any motivation to combine or modify the prior art must be based upon a suggestion in the prior art. *In re Lee*, 61 U.S.P.Q.2d 1430 (Fed. Cir. 2002). Conclusory statements regarding common knowledge and common sense are insufficient to support a finding of obviousness. *Id.* at 1434-35.

**CONCLUSION:**

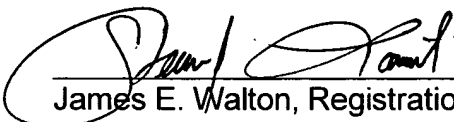
In view of the foregoing amendments and remarks, this application is considered to be in condition for allowance, and early reconsideration and a Notice of Allowance are earnestly solicited.

A Request for Continued Examination (RCE) is being filed in duplicate concurrently herewith to facilitate the processing of this deposit account authorization. **The Commissioner is hereby authorized to charge the RCE Fee of \$790.00 to Deposit Account No. 500777.** Because this Amendment is filed prior to the ending of the response period 15 August 2006 of the Final Office Action mailed on 15 May 2006, no additional fees are deemed to be necessary; however, the undersigned hereby authorizes the Commissioner to charge any additional fees that may be required, or credit any overpayments, to **Deposit Account No. 500777.**

**Please link this application to Customer No. 53184 so that its status may be checked via the PAIR System.**

Respectfully submitted,

8/14/06  
Date



James E. Walton, Registration No. 47,245  
Steven J. Laureanti, Registration No. 50,274  
Daren C. Davis, Registration No. 38,425  
Michael Alford, Registration No. 48,707  
Law Offices of James E. Walton, P.L.L.C.  
1169 N. Burleson Blvd., Suite 107-328  
Burleson, Texas 76028  
(817) 447-9955 (voice)  
(817) 447-9954 (facsimile)  
steven@waltonpllc.com (e-mail)

**CUSTOMER NO. 53184**

**ATTORNEYS AND AGENTS FOR APPLICANTS**